



FEDERAL ELECTION COMMISSION

1325 K STREET, N.W.
WASHINGTON, D.C. 20543

February 14, 1979

MEMORANDUM

TO: FRED S. EILAND
PRESS OFFICE

THROUGH: BOB COSTA *RC*

FROM: JUDY HAWKINS

SUBJECT: PUBLIC ISSUANCE OF AUDIT REPORT -
HARRISON SCHMITT SENATORIAL COMMITTEE
AND DEMOCRATS FOR SCHMITT (NM-SEN)

Attached please find a copy of the final audit report for the Harrison Schmitt Senatorial Committee and Democrats for Schmitt ((NM-SEN) which was approved by the Commission on January 31, 1979.

As of this date, February 14, 1979, all informational copies of the report have been received by all parties involved and this report may be released to the public.

Attachment as stated

cc: FEC Library
RAD
Public Record





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE HARRISON SCHMITT SENATORIAL COMMITTEE AND DEMOCRATS FOR SCHMITT

I. Background

A. Overview

This report is based on an audit of the Harrison Schmitt Senatorial Committee and Democrats For Schmitt ("the Committee(s)"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which directs the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Harrison Schmitt Senatorial Committee registered with the Federal Election Commission on October 28, 1975 as the principal campaign committee designated by the Honorable Harrison H. Schmitt, the Republican Candidate for the United States Senate from the State of New Mexico.

Democrats For Schmitt registered with the principal campaign committee on October 19, 1976, as an authorized committee of the Honorable Harrison Schmitt, and terminated its activities on December 31, 1976.

The audit covered the period October 28, 1975 through September 30, 1977, the final coverage date of the most recent report filed by the Harrison Schmitt Senatorial Committee at the time of the audit. During that period, the committees reported the following activity:



	<u>Beginning Cash</u>	<u>Total Receipts</u>	<u>Total Expenditures</u>	<u>Ending Cash</u>
Harrison Schmitt Senatorial Committee	-0-	\$541,793.73	\$540,778.86	\$1,014.87
Democrats for Schmitt	-0-	21,510.63	21,510.63	-0-
Total Combined Activity	-0-	\$563,304.36	\$562,289.49	\$1,014.87

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the committees during the period audited were:

<u>Committee</u>	<u>Chairman</u>	<u>Treasurer</u>
Harrison Schmitt Senatorial Committee	William J. Donohoe	Randall P. Sullivan 3/23/76 - 9/30/77
		Maureen Reid Viscont 1/12/76 - 3/23/76
		Diana R. Griffin 10/28/75 - 1/12/76
Democrats For Schmitt	Cleo Montoya	Brenda Mansker

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of the Committees' debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Auditor's Statement

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that, except for the deficiencies noted below, the reports and statements of the Harrison Schmitt Senatorial Committee and Democrats For Schmitt fairly present the financial activities of the Committees for the period covered by the audit. Further, except as noted below, no material problems in complying with the Federal Election Campaign Act were discovered during the course of the audit.

1. Description of Findings with Respect to Harrison Schmitt Senatorial Committee

A. Contributions in Excess of Limitation

Section 441a(a)(1)(A) and (f) of Title 2 of the United States Code states, in part, that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. In addition, no candidate or political committee shall knowingly accept any contribution in violation of the provisions of this section.

Section 110.1(a)(2)(ii) of the Commission's Regulations states that: "With respect to any election" means, in the case of a contribution not designated in writing for a particular election, for a primary election, if made on or before the date of the election, or for a general election, if made after the date of the primary election.

An analysis of the contribution records disclosed that nine (9) contributions from eight (8) contributors, each aggregating in excess of \$1,000 and totaling \$10,825.00, were received after the date of the primary election. Information contained on the Committee's contributor record cards indicated that the contributions in excess of the limitations (\$2,825.00) were designated for the primary election.

Although the treasurer stated that the Committee's records contained written documentation from the contributors to support the primary election designation of the excess contributions, he was unable to provide such documentation for the Audit staff's review.

In our letter dated April 24, 1978, we recommended that the Committee refund the excessive contributions (\$2,825) or obtain the required documentation from the contributors and submit it for our review. The Committee submitted the required documentation for five (5) of the eight (8) contributions, totaling \$2,225. For the remaining three (3) excessive contributions the Committee submitted copies of second request letters, sent to the contributors on July 3, 1978.

Since the Committee did not comply with our recommendation this matter was referred to the Commission's Office of General Counsel on July 17, 1978, where Matter Under Review (MUR) 654(78) was initiated.

On September 13, 1978, the Commission, found reason to believe that the Committee violated Section 441a(f) of Title 2 of the United States Code by accepting three (3) contributions in excess of the contributor's contribution limitation of \$1,000 per election.

On September 15, 1978, the Committee submitted the required documentation for the three (3) excessive contributions. The General Counsel, therefore, recommended that the Commission take no further action on the matter.

Based on these facts, the Commission voted on November 21, 1978, to close the file on MUR 654(78) with no further action.

B. Contributions of Currency

Section 441g of Title 2 of the United States Code states, in part, that no person shall make contributions of currency to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

In addition, Section 110.4(c)(2) of the Commission's Regulations states that a candidate or committee receiving a cash contribution in excess of \$100 shall promptly return the amount over \$100 to the contributor.

Information contained on the contribution records indicated that the Committee accepted four (4) cash contributions each exceeding \$100 and totaling \$900.00.

To date, the Committee has submitted copies of three (3) cancelled checks totaling \$700.00 used to refund the excess portion of the contributions to the contributors. The treasurer stated that one (1) remaining check for \$200.00 has not cleared the bank, and he will contact the contributor to determine the disposition of this check and take the appropriate action.

Recommendation

Since the Committee has submitted copies of three (3) cancelled checks used to refund the contributions and is in the process of clearing the one (1) remaining item, we recommend no further action on this matter.

C. Itemization of Transfers

Section 434(b)(4) of Title 2 of the United States Code states, in part, that each report shall disclose the name and address of each political committee from which the reporting committee received any transfer of funds, together with the amounts and dates of all transfers.

During the audit, it was determined that the Committee did not itemize 14 transfers from political committees which totaled \$920.00. These transfers represent approximately 14% of the number and 1% of the dollar amount of all transfers received.

Recommendation

Since we received the Committee's amended schedules on July 8, 1978, disclosing the required information, we recommend no further action on this matter.

D. Disclosure of Occupation and Principal Place of Business

Section 434(b)(2) of Title 2 of the United States Code requires a committee to disclose the occupation and principal place of business, if any, of each person who has made one or more contributions to such committee within the calendar year in an aggregate amount or value in excess of \$100.

It was determined that the Committee did not disclose the contributors' occupation and/or principal place of business for 114 contributions which, in the aggregate, exceeded \$100, and totaled \$28,975.00. This represents approximately 16% of the number and 17% of the dollar amount of itemizable contributions.

We were informed by the treasurer that he attempted to obtain the information, but such attempts were not always documented, however, he agreed to make additional attempts to obtain the required information.

Recommendation

The Committee has filed amended schedules properly disclosing the contributor's occupation and/or principal place of business for 78 of the contributions, totaling \$18,880.00, and has submitted documentation of its efforts to obtain the required contributor information for the remaining 35 contributions. 1/ Therefore, we recommend no further action on this matter.

E. Preservation of Receipts

Section 432(d) of Title 2 of the United States Code states, in part, that it shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of \$100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds \$100.

In addition, Section 102.9(c)(4) of the Commission's Regulations states, in part, that instead of a receipted bill, the treasurer may keep the cancelled check showing payment of the bill; and the bill, invoice, or other contemporaneous memorandum.

1/ The Committee apparently overlooked requesting the required information for one (1) contributor.

Our review of the Committee's expenditure records disclosed 108 expenditures, each aggregating in excess of \$100 and totaling \$31,392.37 that were not supported by receipted bills, invoices, or other contemporaneous memoranda. This represents approximately 15% of the number and 6% of the dollar amount of itemized expenditures. Cancelled checks were presented for each of the expenditures.

In our letter dated April 24, 1978, we recommended that the Committee obtain the supporting documentation for 108 expenditures or present evidence of its efforts to do so. The Committee submitted the necessary supporting documentation for 15 expenditures, totaling \$11,779.96. Additionally, the Committee submitted copies of 93 letters, dated July 3, 1978, to the payees requesting copies of billing statements, invoices, or other contemporaneous memoranda of the transaction.

The Committee's initial date to comply with our recommendation was May 29, 1978. This date was subsequently extended to July 5, 1978. Since the 93 letters were dated July 3, 1978, it was our opinion that the Committee did not exercise best efforts to obtain the necessary documentation, therefore, this matter was referred to the Commission's Office of General Counsel on July 17, 1978, where Matter Under Review (MUR) 654(78) was initiated.

On September 13, 1978, the Commission, found reason to believe that the Committee violated Section 432(d) of Title 2 of the United States Code by failing to retain documentation for 93 itemizable expenditures.

On September 15, 1978, the Committee submitted the required documentation for 47 items totaling \$10,290.97, and has submitted documentation of its efforts to obtain the required documentation for the remaining 46 expenditures. The General Counsel, therefore, recommended that the Commission take no further action on the matter.

Based on these facts, the Commission voted on November 21, 1978, to close the file on MUR 654(78) with no further action.

F. Disclosure of Changes in Statement of Organization

Section 433(b)(5) and (9) of Title 2 of the United States Code states, in part, that a statement of organization shall include the name, address, and position of the principal officers, and a listing of all banks or other repositories used.

In addition, Section 433(c) of Title 2 of the United States Code states that any change in information previously submitted in a statement of organization shall be reported to the Commission within a 10-day period following the change.

Our review of the Committee's records revealed that the Committee did not amend its statement of organization to disclose the current treasurer. In addition, the Committee did not disclose three (3) additional depositories used during a portion of 1976. However, all receipts and expenditures attributable to the depositories were properly disclosed by the Committee. The treasurer informed us he was unaware that this information required disclosure.

Recommendation

Since the Committee has filed an amendment to its statement of organization of July 8, 1978, disclosing the required information, we recommend no further action on this matter.

G. Disclosure of In-Kind Contributions

Section 104.3 (a)(1) and (2) of the Commission's Regulations requires that each in-kind contribution in excess of \$100 be itemized as a receipt and expenditure on the appropriate schedules, and identified as an "in-kind contribution."

It was determined that the Committee itemized 17 in-kind contributions, each exceeding \$100 and totaling \$2,985.36, on the receipts schedules, but did not identify them as "in-kind contributions"; in addition, the Committee disclosed these items as unitemized expenditures. This represents 100% of the number and dollar value of itemizable in-kind contributions.

Recommendation

Since the Committee has filed amended schedules on July 8, 1978, disclosing the required information, we recommend no further action on this matter.

H. Other Matter

Presented below is a matter noted during the audit for which the Audit staff feels no action is warranted. The Committee has been advised of this discrepancy and informed of the respective requirements of the Act.

Nine (9) contributions which aggregated in excess of \$100 and totaled \$1,285.00 were not itemized.

1. Audit Findings and Recommendations
with Respect to Democrats for Schmitt

A. Preservation of Receipts

Section 432(d) of Title 2 of the United States Code states, in part, that it shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of \$100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds \$100.

In addition, Section 102.9(c)(4) of the Commission's Regulations states, in part, that instead of a receipted bill, the treasurer may keep the cancelled check showing payment of the bill; and the bill, invoice, or other contemporaneous memorandum.

During the course of the audit, it was determined that 23 expenditures which aggregated in excess of \$100 and totaled \$6,486.45 were not supported by receipted bills, invoices, or other contemporaneous memoranda. However, cancelled checks were presented for each of the expenditures. This represents approximately 72% of the number and 32% of the dollar amount of expenditures requiring supporting documentation.

In our letter dated April 24, 1978, we recommended that the Committee obtain and submit the required supporting documentation for the 23 expenditures or present evidence of their efforts to do so.

On July 8, 1978, the Committee submitted copies of 23 letters, dated July 3, 1978, to the payees requesting copies of billing statements, invoices or the contemporaneous memoranda of the transaction.

The Committee's initial response date to comply with our recommendation was May 29, 1978, (30 days after receipt of our letter notifying the Committee of the findings and recommendations) this date was subsequently extended to July 5, 1978. Since the 23 letters were dated July 3, 1978, it was our opinion that the Committee did not exercise best efforts to obtain the necessary documentation, therefore, this matter was referred to the Commission's Office of General Counsel on July 17, 1978, where Matter Under Review (MUR) 654(78) was initiated.

On September 13, 1978, the Commission, found reason to believe that the Committee violated Section 432(d) of Title 2 of the United States Code by failing to retain documentation for 23 itemizable expenditures.

On September 15, 1978, the Committee submitted the required documentation for 15 items totaling \$4,688.31, and has submitted documentation of its efforts to obtain the required documentation for the remaining eight (8) items. The General Counsel, therefore, recommended that the Commission take no action on the matter.

Based on these facts, the Commission voted on November 21, 1978, to close the file on MUR 654(78) with no further action.

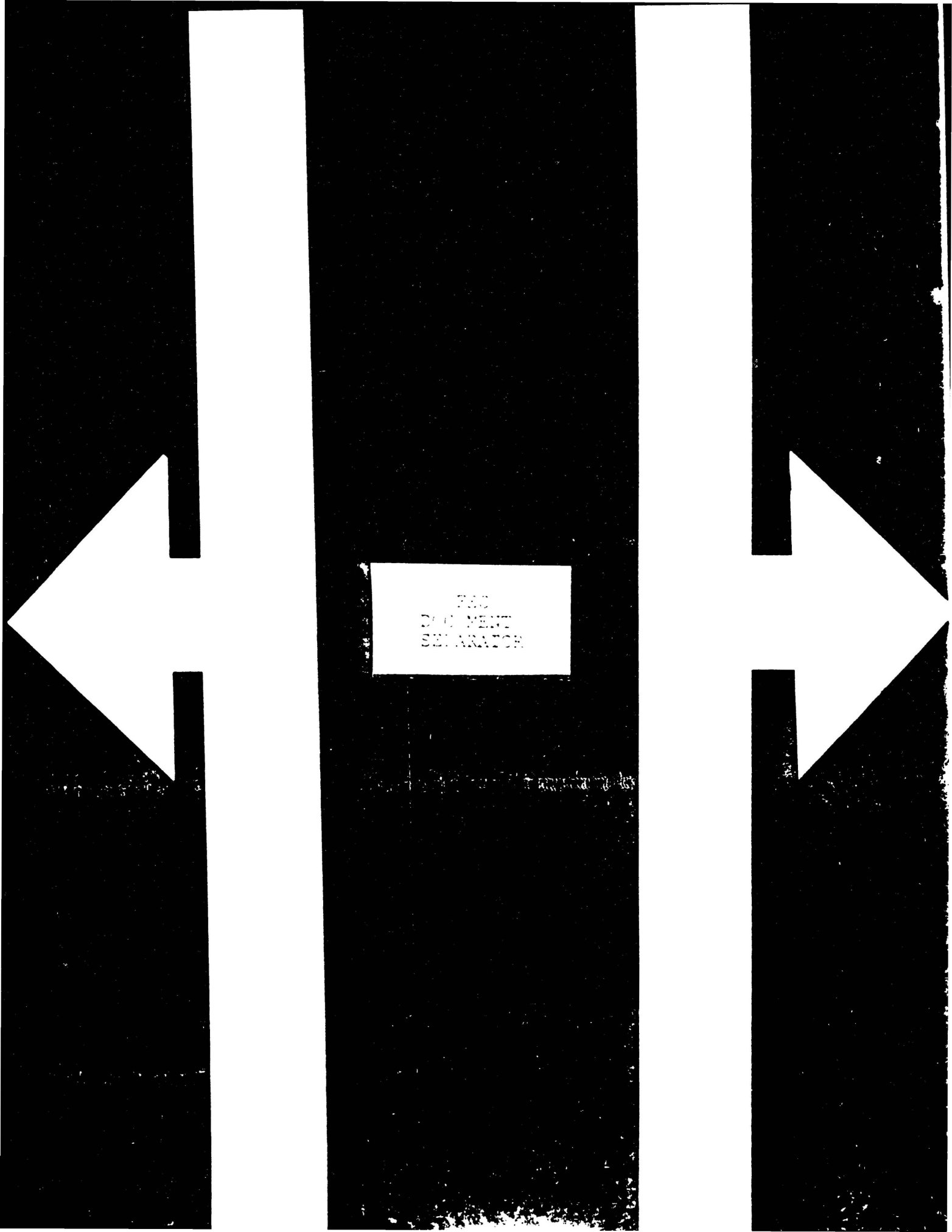


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ADDITIONAL INFORMATION REGARDING THIS ORGANIZATION
MAY BE LOCATED IN A COMPLETED COMPLIANCE ACTION
FILE RELEASED BY THE COMMISSION AND MADE PUBLIC IN
THE PUBLIC RECORDS OFFICE. FOR THIS PARTICULAR
ORGANIZATION'S COMPLETED COMPLIANCE ACTION FILE
SIMPLY ASK FOR THE PRESS SUMMARY OF MUR # 654.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.





FAC
DOCUMENT
SEPARATOR